

## **CHAPTER 5.0 RECIRCULATION FINDINGS**

### **Decision and Explanation Regarding Recirculation of Draft Environmental Impact Report (EIR)**

**DRAFT DATE: OCTOBER 9, 2009**

The California Environmental Quality Act (“CEQA”) Guidelines, Section 15088.5(a) states that the County of San Diego is required to recirculate a draft Environmental Impact Report (“EIR”) when significant new information is added to the draft EIR after public review of the draft EIR but before certification. Significant new information can include changes in the project or environmental setting as well as additional data or other information. New information added to a draft EIR is not significant unless the draft EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse effect of the project or a feasible way to mitigate or avoid such an effect (including feasible alternatives) that the project’s proponents have declined to implement. The County of San Diego provides the following discussion in support of the decision regarding recirculation of the Draft EIR (defined below) pursuant to these criteria as required by CEQA Guidelines Section 15088.5 (e).

**BACKGROUND:** The Draft Environmental Impact Report for the above described project (“Draft EIR”) was distributed to the public for review on August 30, 2007. The public review period for the Draft EIR ended on October 15, 2007. A total of one hundred eight (108) letters were received during the public review period for the Draft EIR from various agencies and individuals, listed on page 2-1 of the Final Environmental Impact Report for the project dated \_\_\_\_\_, 2009 (“Final EIR”) and assigned identification numbers 1 through 108, respectively. Responses to the comments in each number are located in the Final EIR in Chapters 3 and 4 thereof.

A Recirculated Draft Environmental Impact Report for the above described project (“Recirculated EIR”) was distributed to the public for review on March 12, 2009, with comments limited to the new or redrafted portions only. The public review period for the Recirculated EIR ended on April 27, 2009. A total of one hundred ten (110) letters were received during the public review period for the Recirculated EIR from various agencies and individuals, listed on page 2-33 of the Final EIR, and assigned identification numbers R1 through R110, respectively. Responses to the comments in each number are located in the Final EIR in Chapters 3 and 4 thereof.

**DECISION:** No significant new information has been added to the Recirculated EIR since public notice was given of its availability for public review, and therefore, recirculation of the Recirculated EIR is not required.

**EXPLANATION:** The substantive modifications in the Recirculated EIR are:

1. **Clarification to Twin Oaks Valley Road Improvements:** These modifications provide clarification that the potential improvements from Buena Creek Road to 1,000 feet south of Cassou would not be required to adequately mitigate TR-17. M-TR-17, as specified in the EIR provides intersection improvements that adequately mitigate direct impacts along Twin Oaks Valley Road from Buena Creek Road to Cassou Road. Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”
2. **Clarification to Economic Characteristics:** These modifications provide clarification to the existing Economic Characteristics discussion to identify; (i) the “project is intended to capture” property tax revenue to San Diego County that might otherwise be deflected to southwestern Riverside County, and (ii) the proposed project would provide housing opportunities for San Diego County residents and employees to live closer to their work, because the development is in close proximity to employment centers, particularly Escondido, and SANDAG has recognized a housing need in this area. Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”
3. **Clarification to Matrix of Project Approvals:** This modification has been included to provide clarification that a Noise Ordinance Variance will be required for construction of Deer Springs Road and Meadow Park Lane, consistent with the discussion provided in Section 2.4 of the EIR. It better defines the process required under the Noise Ordinance as amended in January 2009. This change is not “significant new information” because it does not involve a new substantial impact or propose a new feasible way to mitigate or avoid this impact that the applicant declines to implement.
4. **Clarification to Growth-inducing Effects:** These modifications provide clarity to the growth-inducing effects discussion, to identify that while the proposed project includes densities beyond those in the VWD Master Plan, VWD has indicated ability to serve the land uses proposed by the Merriam Mountains GPA. Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”
5. **Clarification to Construction Emissions “Short-Term”:** These modifications provide clarity by replacing the term “short-term emissions” with “construction emissions” to avoid the ambiguous meaning of “short-term” in relation to the project. Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”

6. **Clarification to California Green Builder Program and LEED Certification:** These modifications provide clarity to existing project design features regarding when the project applicant will be required to ensure the proposed residential and/or commercial structures have met the certification requirements. Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”

7. **Clarification to Air Quality Mitigation for Construction Emissions:** These modifications provide clarity to existing mitigation measures to identify the project applicant will be required to provide evidence that the conditions outlined in proposed mitigation measures have been met. In addition, to be consistent with California Air Resources Board regulations, the idling time restriction of 15 minutes for heavy equipment has been specified in the list of project design features. Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”

8. **Clarification to Travel Demand Measures:** These modifications provide clarity to existing project design features regarding measures to reduce vehicle miles traveled and therefore reduce GHG emissions. These measures increase accessibility of alternate modes of transportation and improve traffic flow (from project constructed road improvements). Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”

9. **Clarification to GHG Construction Emissions:** These modifications provide clarity that while construction-related GHG emissions have been quantified, emissions reductions are not quantified. Rather, as stated in the EIR, no regulations have been approved to date by EPA to directly reduce construction-related GHG emissions. The EIR references estimates to reduce emissions from off-road equipment in the SDCGHGI and notes that reductions attributable to transportation-related emissions over the life of the project may also be applied to off-set the project's one-time construction emissions. Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”

10. **Clarification to Traffic Mitigation Measures for Signal Warrant Analysis:** These modifications provide clarity to existing mitigation measures regarding installation of traffic signals based upon a signal warrant analysis that shall be completed prior to the identified Phase or subsequent phases; traffic signals will be installed when warrants are met. Therefore the change merely amplifies or clarifies the timing of the mitigation and is not “substantial new information.”

11. **Clarification to Traffic Mitigation for cumulative traffic impacts in a different jurisdiction (M-TR-28, 29, 30, 31, 32, 33, 39 and 40):** These modifications provide

clarity to existing mitigation measures regarding the requirement for the project applicant to make a contribution proportionate to the impact caused by the project. This is consistent with CEQA Guidelines, section 15126.4(a)(4)(B), which identifies mitigation should be roughly proportional to the impacts caused by the proposed project. Regardless, the impact remains unmitigated because the County cannot insure that it will occur at the time of impact or at all. Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”

**12. Clarification to Traffic Mitigation for construction of improvements completed in a different jurisdiction (M-TR-1, 2, 4, 5, 9, 10, 14, 15, 16, 17, 18, and 23) :**

These modifications provide clarity to existing mitigation measures regarding the agreement that may be reached with the City of San Marcos and/or Caltrans for construction of improvements. The mitigation has been revised to clarify that the project applicant shall either: (i) construct such improvements identified in the mitigation measures, or (ii) enter into an agreement with Caltrans and/or the City of San Marcos to construct such improvements and provide security for completion of the project applicant’s payment obligations under such an agreement. The mitigation identifies that in the event an agreement is entered into between the project applicant and the County Department of Public Works with respect to the required improvements, such agreement shall specify that the improvements shall be completed. The mitigation further identifies that this requirement may be waived if the Project Applicant provides sufficient evidence satisfactory to the Director of DPLU that Caltrans and/or the City of San Marcos will not enter into an agreement. Regardless, the impact remains unmitigated because the County cannot insure that it will occur at the time of impact or at all. Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”

**13. Clarification to Traffic Mitigation for the following direct impacts: TR-24 and TR-25.**

These modifications provide clarity to existing mitigation measures regarding the requirement for the project applicant to make a contribution proportionate to the impact caused by the project. This is consistent with CEQA Guidelines, section 15126.4(a)(4)(B), which identifies mitigation should be roughly proportional to the impacts caused by the proposed project. Regardless, the impact remains unmitigated because the County cannot insure that it will occur at the time of impact or at all. Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”

**14. Clarification to Impulsive Noise:** These modifications provide clarity to the impact analysis by noting the required Blasting Permit from the Sheriff requires that noise from the blast would comply with the County’s Impulsive Noise Standard (number of blasts shall not exceed 25% of the minutes in the 1-hour measurement period). Therefore this change merely

amplifies or clarifies the original information presented in the EIR and is not “significant new information.”

15. **Clarification in Temporary Noise Mitigation (NOI-7b):** These modifications add information to the document which provides the location of the temporary barriers required as a result of the modeled noise levels at Sites 14, 15, 16, 19, and Golden Door during construction. This clarification brings forward information to the EIR from the technical studies that were circulated for public review. This clarification is not “significant new information” because it does not involve a new substantial impact or propose a new feasible way to mitigate or avoid this impact that the applicant declines to implement.

16. **Clarification to Alternative Alignments for Deer Springs Road:** These modifications provide details regarding the alternative alignments for Deer Springs Road that were considered within the vicinity of the significant cultural sites. The clarification demonstrates there is no feasible or physical way to keep the roadway on the least overall damaging alternative alignment (in the vicinity of the significant sites) and to further avoid site impacts. This clarification brings forward information to the EIR from the technical studies that were circulated for public review. Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”

17. **Clarification to Sheriff Facilities:** These modifications provide clarity to the sheriff facilities discussion by noting that based on updated information from the Sheriff’s Department (i) a new station or station upgrade would not be required to accommodate additional staff, and (ii) a cumulative impact on law enforcement facilities would not result with the proposed project. Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”

18. **Clarification to Alternative F – Deer Springs Road Alignment:** These modifications provide an update in compliance with revisions to the Noise Ordinance that both the proposed project and Alternative F would require a Noise Ordinance Variance to complete construction. It better defines the process required under the Noise Ordinance as amended in January 2009. This clarification is not “significant new information” because it does not involve a new substantial impact or propose a new feasible way to mitigate or avoid this impact that the applicant declines to implement.

19. **Clarification to Mitigation of Traffic Impacts:** These modifications provide clarity to existing mitigation measures regarding the intersection at Mesa Rock Road/Deer Springs Road in San Diego County with respect to the lane configuration resulting from the Caltrans Project Study Report process which is currently underway. This clarification is not

“significant new information” because it does not involve a new substantial impact or propose a new feasible way to mitigate or avoid this impact that the applicant declines to implement.

20. **Clarification to Mitigation of Cultural Resource Impacts:** These modifications provide clarity to existing mitigation measures regarding (i) before an after photo documentation of the protective measures put in place with regard site CA-SDI-9822; (ii) use of the term “cleaned” instead of “washed” with regard to artifacts, (iii) use of the term “remains” instead of “bones,” and (iv) revisions regarding which site contains the pictograph. These clarifications are not “significant new information” because they do not involve a new substantial impact or propose a new feasible way to mitigate or avoid this impact that the applicant declines to implement.

21. **Clarification to Evacuation Egress:** These modifications provide clarity to existing evacuation procedures by noting that the number of lanes available for evacuation for each roadway will be determined by the local authorities as they will have the ability to direct residents away from an approaching fire and use lanes along roadways to provide the most efficient evacuation. Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”

22. **Clarification to Deer Springs Fire Safe Council (DSFSC) Education:** These modifications provide clarity to existing provisions to require the applicant to ensure that the project residents receive the same educational services as DSFSC provides for the rest of the Deer Springs Community to actively promote fire preparedness. This clarification is not “significant new information” because it does not involve a new substantial impact or propose a new feasible way to mitigate or avoid this impact that the applicant declines to implement.

23. **Clarification to Vallecitos Water District (VWD) Provisions:** These modifications provide clarity by: (i) noting that there will be a Master Agreement between VWD and the developer, prior to the issuance of building permits; (ii) noting that the proposed Project will contribute to the expansion of the Encina Wastewater Authority solids/liquids/treatment facility directly through payment of Merriam Mountains share for such expansion; and (iii) noting that in the event the parallel land outfall would need to be constructed to address wastewater from the Project, that the Project would be responsible for payment of additional fees that may be required to perform such work. Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”

24. **Clarification to Deer Springs Fire Protection District (DSFPD) Provisions:** These modifications provide a naming correction by noting that Station 1 has been renamed as Station 11. Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”

25. **Project Alternative to include a Revised Alignment for Deer Springs Road to ensure avoidance of the residence located at 1088 Deer Springs Road:** A revised alignment for Deer Springs Road has been included in the FEIR that would ensure avoidance of the residence located at 1088 Deer Springs Road. The revised alignment has been proposed by the project applicant based on comments received on the REIR. An environmental review of the potential environmental effects associated with the revised alignment has been included in the EIR for consideration by the decision makers. This revised alignment being included as a project alternative for consideration by the decision makers is not “significant new information” because it does not involve a new substantial impact or propose a new feasible way to mitigate or avoid an impact that the applicant declines to implement.

26. **Clarification to Silica Dust that may be generated during Construction:** These modifications provide clarity by: (i) identifying there are no adopted CEQA significance thresholds for environmental exposure of nearby receptors to airborne crystalline silica generated by construction activities (ii) the State of California has not established an acute Reference Exposure Level (REL) for short-term exposure because adverse health effects associated with short-term environmental exposure to crystalline silica have not been identified, (iii) Because silicosis and other potential adverse health effects have been determined to be the result of long-term exposure to crystalline silica, evaluations of potential health effects have not been focused on residents, nor on short-term exposure, and (iv) even if maximum exposures adjacent to the Merriam construction project occasionally exceeded the levels, they would remain well below levels identified by the State as posing a health risk. Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”

27. **Clarification that Silica Dust generated by the project would be Less than Significant:** This information clarifies the State of California (OEHHA) Reference Exposure Level (REL) in relation to silica dust generated during construction. The potential for adverse health effects to result for residents located in the vicinity of the project site is not likely because (i) the project will incorporate OSHA administrative and engineering controls for airborne contaminants; (ii) the project will implement measures to comply with the REL for crystalline silica for workers; and (iii) residents would rarely be exposed to levels above the REL, if at all, and exposure of levels above the REL for short periods of time would not constitute chronic exposure (8 years or more). This clarification is not “significant new information” because it does not involve a new substantial impact or propose a new feasible way to mitigate or avoid this impact that the applicant declines to implement.

28. **Clarification to Figure 1.1-20 to include revised blasting limits along Deer Springs Road that are referenced in Section 2.4.** Section 2.4, Guideline 4 identifies that the preliminary geotechnical information indicates that off-site drilling and blasting along Deer

Springs Road could be necessary in addition to areas identified on the drilling and blasting exhibit (Figure 1.1-20). Figure 1.1-20 has been revised to clarify the location of this blasting area along Deer Springs Road. The drilling and blasting noise at this location will be mitigated through measures that were previously provided in the EIR for drilling and blasting noise. Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”

29. **Revised Mitigation Measure M-AQ-2g:** Grading operations shall be limited to 40 acres per day to ensure construction emissions do not exceed projections completed as part of the air modeling. This amplification is not “significant new information” because it does not involve a new substantial impact or propose a new feasible way to mitigate or avoid this impact that the applicant declines to implement.

30. **Clarification that VOC emissions would be less than significant:** These modifications provide clarity that VOC emissions that exceed the screening levels would be less than significant based on the updated emissions calculations reflecting the Project Applicant’s implementation schedule and incorporation of the proposed Project Design Features included in M-AQ-1 (Scientific Resources Associated, ROG Emissions Memorandum, August 2009). Therefore this change merely amplifies or clarifies the original information presented in the EIR and is not “significant new information.”

31. **Revised Mitigation Measure M-BIO-7:** These modifications provide clarity to existing mitigation measures regarding (i) requirements for clearing and grubbing in areas containing Coastal Sage Scrub vs. the entirety of the project site, (ii) a letter documenting the results of the breeding bird survey shall be submitted to DPLU, and (iii) clearing and grubbing during the California gnatcatcher breeding season is prohibited unless written concurrence is received from U.S. Fish and Wildlife and the California Department of Fish and Game. These clarifications are not “significant new information” because they do not involve a new substantial impact or propose a new feasible way to mitigate or avoid this impact that the applicant declines to implement.

32. **Revised Mitigation Measure M-NOI-6a:** These modifications include providing clarity to an existing mitigation measure associated with blasting noise mitigation. The mitigation measure has been revised to identify limiting the number of drilling and blasting hours per day could also reduce the potential for noise impacts. These clarifications are not “significant new information” because they do not involve a new substantial impact or propose a new feasible way to mitigate or avoid this impact that the applicant declines to implement.

33. **Revised Mitigation Measure M-AE-1:** These modifications provide clarity to existing mitigation measures regarding visual impacts associated with grading on Insignificant



Steep Slopes. The mitigation measure has been revised to clarify grading techniques included as part of the RPP is the applicable mitigation to reduce the identified impact. These clarifications are not “significant new information” because they do not involve a new substantial impact or propose a new feasible way to mitigate or avoid this impact that the applicant declines to implement.

34. **Revised Mitigation Measure M-NOI-6B:** This modification has been included to provide clarification that a County-approved acoustical consultant shall monitor for compliance with the Noise Ordinance on an occasional or on-call basis at locations where drilling and blasting operations are in proximity to existing off-site residential structures. This change is not “significant new information” because it does not involve a new substantial impact or propose a new feasible way to mitigate or avoid this impact that the applicant declines to implement.

All other modifications are non-substantive clarifications to the EIR.

Based upon the criteria of “significant new information” as defined in Section 15088.5(a) of the CEQA Guidelines, no substantive new information has been added to the Recirculated EIR as a result of changes in the project or environmental setting or the addition of new data. Modifications to the Recirculated EIR for inclusion in the Final EIR are considered minor clarifications. Modifications are highlighted in the Final EIR by text underline and strikeout. Modifications do not include: (1) new significant environmental impacts or mitigation measures; (2) increased severity of environmental impacts; or (3) new alternatives or mitigation measures deemed considerably different from those analyzed in the Recirculated EIR. Modifications to the Recirculated EIR clarify and amplify information already contained in the document.

An analysis of the changes in the Recirculated EIR since public notice has been conducted, and those changes to the Recirculated EIR do not meet the criteria for recirculation of the Recirculated EIR pursuant to CEQA Guidelines Section 15088.5. Given these facts, no further recirculation is required.

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